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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,453	02/12/2004	Lynn Noble	034017R015	3598
441	7590	04/25/2005	EXAMINER	
SMITH, GAMBRELL & RUSSELL, LLP			WEEKS, GLORIA R	
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WASHINGTON, DC 20036			PAPER NUMBER	

3721

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/776,453

Applicant(s)

NOBLE, LYNN

Examiner

Gloria R Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
4a) Of the above claim(s) 30 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-12 and 16-29 is/are rejected.
7) ☒ Claim(s) 13-15 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/1/05:10/8/04; 3/1/04
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Election/Restrictions

1. Applicant's election of Group I, Claims 1-29, in the reply filed on March 1, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claim 30 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 1, 2005.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 7-11, 17-19, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "transmission means" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "said biasing device" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites the limitation "said cam" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-12, 16-17, 20-24 and 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Patelli (USPN 5,063,727).

In reference to claims 1-6, Patelli discloses an end sealer shifting assembly comprising: a transmission (41); a push rod assembly (25) driven by the transmission (41), the push rod assembly comprising a rod (25d) with a first end received by the jaw (25s), and a reception sleeve receiving (25b) the rod (25d); an end seal compression jaw (25a) in driving engagement with the push rod assembly (25); compliance means including a spring (34) biasing the jaw (25a) towards a contact member (24), the compliance spring (34) also biasing the reception sleeve (25b); the rod (25d) further comprising an expanded jaw end (25f) which restricts movement of the rod (25d) relative to the first end.

Regarding claims 1 and 7-12, Patelli discloses an end sealer shifting assembly comprising: a transmission including a cam (41) and a roller (26) in driving communication with a push rod assembly (25), wherein the roller (26) is biased into engagement along an outer, peripheral edge of the cam (41) by a roller bias spring (35); an end seal compression jaw (25a) in driving engagement with the push rod assembly (25); and compliance means including a first and second spring (35; figure 6) for biasing the jaw (25a) towards a contact member (24).

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With respect to claims 1, 16 and 17, Patelli discloses an end sealer shifting assembly comprising: a transmission (41) in driving communication with a push rod assembly (25), the push rod assembly including a push rod assembly position restrictor device in the form of a casing (25b) having an interior contact portion (25d) receiving a rod (25c); an end seal compression jaw (25a) in driving engagement with the push rod assembly (25); and compliance means biasing the jaw (25a) towards a contact member (24).

In reference to claims 1, 20 and 21, Patelli discloses an end sealer shifting assembly comprising: a transmission (41) in driving communication with a push rod assembly (25); a heated end seal compression jaw (25a) in driving engagement with the push rod assembly (25); and compliance means biasing the jaw (25a) towards a contact member (24); wherein the push rod assembly includes a pair of axially adjustable rods (received in 35) in engagement with respective opposite ends of the jaw (25a).

Regarding claims 22-24 and 26-28, Patelli discloses an end sealer shifting assembly comprising: a cam member (41) in driving communication with a rod assembly (25); a heated sealer compression jaw (25a) in driving engagement with the rod assembly (25); a first compliance bias spring (34) and a rod extension (27a) slidably receive by the jaw (25a); a casing or housing block (25b) which receives the push rod assembly wherein a second compliance bias spring (35) is in a biasing relationship between the casing (25b) and the push rod assembly (25e); and a position restrictor (31a), the first compliance bias spring (34) being preloaded to bias the jaw (25a) relative to the position restrictor (31a) while the second compliance bias spring (35) is designed to bias a transmission engagement end (26) of the push rod assembly toward the cam (41).

With respect to claims 29, Patelli discloses a method of manufacturing an end sealer shifter assembly comprising: providing a transmission in driving communication with a push rod assembly (25); providing an end seal compression jaw (25a) in driving engagement with the push rod assembly (25); and providing a compliance means (34) for biasing the jaw (25a) towards a contact member.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patelli (USPN 5,063,727) in view of Fowler et al. (USPN 5,284,002).

In reference to claim 25, Patelli discloses a end sealer shifting assembly comprising a heated sealer compression jaw, but does not disclose using a heated wire as the source of heat in the sealer compression jaw. Fowler et al. teaches an end sealer shifting assembly having a sealer compression jaw including a heated wire (174, 176, 178, 179). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the compression jaw of Patelli to include the heated wire of Fowler et al for the purpose of isolating the heat in the compression jaw to a desired area, verses having the entire contact surface of the jaw heated.

Allowable Subject Matter

9. Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter in claims 13-15: The art of record considered as a whole, alone or in combination, neither anticipates nor renders obvious an end sealer shifting assembly comprising: a push rod assembly driven by a transmission; and a compliance means for biasing an end seal compression jaw into a compression relationship with a contact member, wherein the compliance means includes a first spring, having a first spring constant, positioned to bias a rod of the rod assembly toward a transmission, and a second spring, having a second spring constant, positioned to bias the compression jaw toward the contact member.

10. Claims 18 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter in claims 18 and 19: The art of record considered as a whole, alone or in combination, neither anticipates nor renders obvious an end sealer shifting assembly comprising: a push rod assembly driven by a transmission; and a compliance means for biasing an end seal compression jaw into a compression relationship with a contact member, wherein the compliance means includes a push rod assembly position restrictor slidably receiving a rod of the push rod assembly and a slide

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sleeve, in which a biasing device exerts a biasing force against the slide sleeve for positioning the compression jaw into a compression relationship with the contact member.

Conclusion


11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on 8:30 am - 7:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks
Examiner
Art Unit 3721


grw
April 19, 2005


SCOTT A. SMITH
PRIMARY EXAMINER